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File No. O. MS.RO 48

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Subject:— Opinion under the Motor Spirit Rationing Order, 1943.

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C O N T E N T S .

Legal Department File No. O/MSRO/48

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Office of the R.L.A.

The Provincial Rationing Authority, Bombay , holds the view that, though a standard has been laid down in the Second Schedule to the Motor Spirit Rationing Order, 1941. clause 21(2) of that Order gives discretion to the Rationing Authorities to decide the basic ration for all classes of vehicles subject to the standards indicated in the said Schedule and that by "standard" is meant not a fixed ration but only the standard of discretion so that there may not be wide fluctuations and disparities with regard to basic ration of different horse power cars. He also holds that the "standard" could be construed as the maximum within which the Rationing Authority can decide the issue of basic ration. On the other hand, the WI.A.R. has expressed the view that the basic ration for cars as fixed by the Government of India cannot be reduced by this Government. R.L.A. is requested to advise in the matter.

2. Clause 21(2) of the Motor Spirit Rationing Order, 1941 , reads as follows:

> "An Area Rationing Authority shall, subject to any instructions issued in this behalf by the Provincial Rationing Authority and to the Standards specified in the Second Schedule, decide in respect of any vehicle for the time being within its jurisdictional area the amount of motor spirit for which coupons may be granted and shall authorise the issue of all coppons. "

The Second Schedule lays down the standards for Area

Rationing Authorities. These Stantards are all in terms of quantitative measurements. Not only that, but in respect of all classes, excepting class 5, they are actually the minimum required, In respect of class 5 the standard is expressed in terms of units per month depending upon the horse- power. By the word "standard" is meant "a prescribed minimum size or amount"(see Dr. Murray's New English Dictionary, Vol,IX,p-815). The power given under clause 21(2) to the Area Rationing Authority to decide the amount of motor spirit for which coupons may be granted is subject to these standards, i.e. subject to these prescri bed minimum quantities. The power , is in other words, controlled by those minimum quantities and cannot suspersede them. I am, therefore, inclined to endorse the view urged by the W.I.A.A. which is concurred in by the H.D. It is upon this view that the Government of India seem to have recently amended the entry in the second column against item No. 5 because of the reduction in the Provincial quota of motor spirit (vide Notification of the Government of India, Ministry of Transport, No. PR(12/48), dated the 24th April 194 8).

Id/- P.M.L.
dt/- 1/6/

Remembrancer of Legal Affairs.

U.R. to H.D. No. 5296 , dated the 4th June 1948.

V.V.K. 10/7/56/ 5C.